

NEWS NOTES

of the Central Committee for Conscientious Objectors

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Philadelphia, Pa.

Nonregistrant Gets Probation

Court Agrees Prison Won't Reform C.O.'s Gives 18-Year-Old 5 Years Probation

John Gary Stoltenberg, 18-year-old Church of the Brethren C.O. from El Cerrito, California, was found guilty on October 8 of refusal to register for the draft within five days of his 18th birthday as required by the draft law. Instead of reporting to his local board, Stoltenberg wrote a letter to the Attorney General of the United States informing him that in good conscience he could not comply with the draft law because of his religious convictions.

Federal Judge George B. Harris, in San Francisco, sentenced Stoltenberg to five years on probation. As one condition of probation Stoltenberg must perform two years of civilian work with the Brethren Service Commission, here or abroad. Had he registered for the draft Stoltenberg would have had no trouble securing a I-O classification and would have had to perform similar civilian work in lieu of military duty. To avoid further difficulty with Selective Service and in recognition of Stoltenberg's conscientious stand, the probation order expressly exempted violation of the draft act as a violation of the terms of probation.

The court also applied the Federal Youth Correction Act to Stoltenberg's conviction. Thus, upon completion of a satisfactory probation the Youth Correction Division of the Department of Justice will automatically set aside the conviction and, in effect, clear Stoltenberg of any criminal record. As far as CCCO has been able to determine this is the second time that a federal court has applied the Federal Youth Correction Act to a young C.O.

George Brunn, San Francisco legal counsel for Stoltenberg, submitted a memorandum to the court urging probation for his client. In discussing the problem of probation for Selective Service cases Brunn wrote, "We deal here with a youthful first offender of high moral and religious character and considerable maturity, who is willing to engage in hard, useful work for which both the opportunity and the need exist. Were his offense one other than a Selective Service law violation—had he stolen a car or forged a check or gotten into a fight—he would undoubtedly receive sympathetic consideration for probation. Should the result be different because he has committed a crime of 'conscience' rather than one of violence? We vigorously submit that it should not. To treat one who believes in nonviolence worse than one who commits

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Humanist Denied Citizenship

Eric Victor Levy, 31-year-old English national, was denied American citizenship by the U. S. Immigration and Naturalization office last July. Eric entered the United States as a resident alien in 1949. He was denied a C.O. classification by his draft board and was inducted into the Army in 1953. He sought unsuccessfully to obtain a discharge as a C.O.

The naturalization examiner recommended denial of the citizenship petition on the ground that Levy was unable to take the required oath of allegiance, and that he had failed to establish that he is attached to the principles of the U. S. Constitution.

The Immigration and Naturalization Act of 1952 provides for the naturalization of alien conscientious objectors who can show by clear and convincing evidence to the naturalization court that they are opposed to military duty by reason of religious training and belief. The Act uses the identical wording found in the C.O. clause of the draft law.

Levy testified before the naturalization examiner that he could not accept any military duty but that he would perform civilian work. Levy, who calls himself a humanist, further stated that he did not know whether a Supreme Being existed. From this, the naturalization examiner found that it naturally follows that to Levy the phrase "So help me God" has "no significance greater than ordinary conversation."

The examiner further found that Eric Levy had failed to establish by clear and convincing evidence that he had true faith and allegiance for the United States. "True faith and allegiance," stated the examiner, "is best exemplified by those men who established the United States and who preserved it when it was threatened. It might well be said also that such faith and devotion was exemplified by the Army of the North in 1860-65, by the 'Yanks' who gave their last full measure of devotion in Europe in 1917-18, and by the American boys who defended the principles of democracy as outlined in our Constitution in the various fronts throughout the world in 1942-46." The examiner added that "it is a well-known and acknowledged fact that the government of the United States is based upon Christian principles, and that a belief in a Supreme Being involving duties superior to those arising from any human relation is a pre-requisite to acceptance into and as a member of our body-politic."

At the naturalization hearing Levy testified that he was

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Voyage of The Golden Rule

(By Albert Bigelow, Doubleday, 1959, 286 pp., \$3.95)

The story of the voyage of *Golden Rule* unfolded as if by a dramatist who waited to see the first two acts before writing the third. Those who undertook it, crew and fellow "plank-owners," were not sure what the outcome would be, and deliberately tried to avoid preoccupation with results. Bigelow likes to quote Gandhi's aphorism: the important thing about an act is not its success but its propriety. From its inception there was an authentic "rightness" about this action, enabling it to speak to the minds and consciences of millions of people.

Two dramatic themes conjoined: man against the sea and man against the bomb. Both themes arise out of the aspiration of human spirit to triumph over massive and overwhelming force. Nothing in nature can surpass the fury of a storm at sea. Nothing that man has devised is so awesome in its naked power as an H-bomb. Bigelow describes both in memorable detail. Had the voyage of *Golden Rule* been only an act of defiance against the forces of man and nature, it could be listed alongside such interesting ventures as the voyage of *Kon-tiki*. It was not an act of defiance, but a response to the call of conscience, a mission on behalf of humanity threatened by destruction and defilement. Thus it takes its place in the *Book of Life*.

Bigelow writes with verve and composure. He must have been tempted often to "purple passages" and outpourings of passion. Occasionally one can see the writer's device, as when he describes the chase of *Golden Rule* out of the harbor toward the open seas with a Coast Guard cutter in hot pursuit. The description of the storm is unforgettable.

The publishers expressed some concern whether the book was "to nautical for the pacifists and too pacifist for the nautically inclined." Let the latter group speak for itself, but as this pacifist encountered the fascinating nautical language (how can a 30-foot boat have so many fantastic parts?) he felt somehow he was being initiated into the mysteries of an ancient rite.

Of special interest to pacifists are the accounts of dealing with the government, of working out a group discipline, of applying conflicting principles of nonviolent action to the making of difficult decisions and of behavior in prison. Members of the crew had said to themselves and to the public, "we are in this, come what may." In addition to the elements of personal danger they confronted was the test of their individual approaches to nonviolence, differing temperaments and religious traditions and the ever-present realization that "this is it" and tomorrow may be an eternity away. This gave an unmistakable immediacy to even small details—and in a tiny boat as well as a cramped cell, one finds it hard to envision a "small detail." The way the crew achieved a pattern of working together is an important new chapter in the dynamics of pacifist action.

The details of prison life, as recounted in this book, are a raw reminder of the daily inhumanities which prisoners endure. Bigelow has depicted beautifully the blend of grim but unique and irrepressible humor that is so much a characteristic of prison, with the pathos and "spiritual

H-Bomb Protester Appeals

Earle L. Reynolds is appealing the six month jail sentence he received last August for willfully sailing his yacht, *Phoenix*, into the Central Pacific nuclear bomb test area on July 1, 1958.

U. S. District Judge John R. Ross sentenced Reynolds to two years imprisonment, but suspended 18 months of the sentence and placed him on probation for five years.

The government charged Reynolds with violating the Atomic Energy Commission's regulation making it illegal for an American citizen to enter the hydrogen bomb test area without permission. Reynolds admitted sailing *Phoenix* several miles into the area with his wife, two children, and a Japanese yachtsman, Nick Mikami, at a time when bomb tests were being conducted. Before crossing into the forbidden area Reynolds was warned by the commander of a U. S. Coast Guard cutter which had been trailing *Phoenix* as it sailed toward the test area. Reynolds ignored the warning and sailed into the forbidden zone. Two Coast Guardsmen boarded *Phoenix* and placed Earle Reynolds under arrest.

Reynolds argued in court that the Atomic Energy Commission regulation was not authorized by act of Congress, and that Congress could not delegate power to make a "new and novel type of crime" such as sailing a boat on the high seas. The defense also argued that Congress could not allow an administrative agency such as A.E.C. to make laws which in effect violated treaties Congress had made to respect freedom of the seas.

John Silard, attorney for Reynolds from Washington, argued that Reynolds' offense was not "a willful one." He defined a willful violation of law as one that had a sinister purpose or no justifiable excuse. Reynolds testified that as a scientist he had been "very concerned about the probability the health of the world will be affected by nuclear fall-out." Judge Ross did not permit Reynolds to finish and halted testimony on the voyage's motivation by his wife, Barbara; his son, Ted; and his daughter, Jessica—all three of whom took the stand.

In denying a brief adjournment until the arrival from Japan of a defense witness, Judge Ross stated: "I am not concerned with his (Reynolds') philosophy or whether the explosion of atomic bombs endanger human life. I am only concerned whether or not he entered the test zone."

Reynolds was first convicted in August, 1958. However, the Ninth Circuit Court of Appeals in San Francisco reversed the conviction on the ground that the former presiding judge, J. Frank McLaughlin, had refused to allow Reynolds to act as his own attorney.

Reynolds continues free on \$500 bail pending the new appeal. Funds for this appeal are urgently needed. Contributions should be sent to *Phoenix Defense Fund*, P. O. Box 5199, Honolulu, Hawaii.

abrasion" one sees and feels in the weary routine of life behind bars.

Here is the account of a memorable voyage, a landmark in the development of nonviolence in America. Buy the book and read it. If you want to keep the book, write your name on it clearly, for many friends and neighbors will be borrowing it.

Charles Walker

Briefly Noted

Patrick Nash, young Quaker high school student in Nashville, Tennessee, has refused to participate in R.O.T.C. at Central High School, required of all male students. The State Board of Education has declined to make an exception for Nash. It requires physical education which is available to boys in Central High only in the form of R.O.T.C. Young Nash may have to transfer to one of the other three high schools on the outskirts of Nashville where R.O.T.C. is not offered. In the meantime Patrick Nash is continuing his studies at Central High. He will not be able to graduate unless he completes the required physical education course.

* * *

Paul R. Glynn, of Waco, Texas, was recently honorably discharged from the Naval reserve because of his conscientious objection to military duty. Glynn had served four years in the U. S. Navy and had four years reserve duty remaining when he was discharged. Glynn became a C.O. when he joined the Davidian Seventh-day Adventist church whose members are opposed to both combatant and noncombatant military duty.

* * *

Eroseanna Robinson, Chicago tax refuser, is being threatened with court action by the Internal Revenue Service for refusal to pay income taxes over the past five years. The Chicago Daily News reports that the government is taking court action to compel Eroeseanna Robinson to pay her income tax or face contempt of court. The government admits that it does not know how much Miss Robinson owes since she has refused to file returns.

* * *

James Bristol is the new director of the American Friends Service Committee's C.O. service program, on a half time basis. Bristol recently returned from two years of work with the Friends in India. He was a prison C.O. during World War II and at one time following the war was secretary of the Philadelphia Committee for Conscientious Objectors.

U. S. Medical Corps psychiatrists who studied combat fatigue cases in the European theatre during World War II found that "fear of killing rather than fear of being killed, was the most common cause of battle failure in the individual, and that fear of failure ran a strong second." They also observed that "the man who can endure the mental and physical stresses of combat still has such an inner and usually unrealized resistance toward killing a fellow man that he will not of his own volition take life if it is possible to turn away from that responsibility. Though it is improbable that he may ever analyze his own feelings so searchingly as to know what is stopping his own hand, his hand is nonetheless stopped. At the vital point, he becomes a conscientious objector, unknowing."

(From MEN AGAINST FIRE, by S. L. A. Marshall, now a brigadier general in the U. S. Army.)

Imprisoned C.O.'s Refuse Work

Donald Fortenberry and Ed Lazar, two of the four C.O.'s imprisoned at Springfield, Missouri for illegal entry into the missile base near Omaha, Nebraska, early in September refused to cooperate further with prison authorities. They were immediately placed in administrative segregation. Shortly thereafter Fortenberry was transferred to the federal correctional institution at Seagoville, near Dallas, Texas. Lazar was transferred to a similar institution in Danbury, Connecticut.

Karl Meyer was also transferred to a prison camp at Allenwood, Pennsylvania. CCCO has not been able to verify whether Meyer had also refused to cooperate. Bradford Lyttle is the only one of the original four left at Springfield.

Since the \$500 fines levied against these men and the others who were sentenced for illegal entry into the missile base were not "committed" fines the government cannot hold them an additional 30 days for nonpayment of fines. None of the men, nor Marjorie Swann, who is imprisoned in West Virginia, intend to pay their fines.

Hennacy Jailed

On August 24 Ammon Hennacy, associate editor of *The Catholic Worker* and a member of CCCO's executive committee, drove into the very center of the ICBM base near Omaha before being apprehended by authorities. Hennacy, who had previously notified authorities of his intention to enter the base, was sentenced by Judge Robinson to six months in jail and a fine of \$500. He was sent to the federal correctional institution at Sandstone, Minnesota where he joined Arthur Harvey, also serving six months for the same offense. Hennacy and Harvey are working in the prison educational department classifying the books in the prison library.

NONREGISTRANT GETS PROBATION

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anti-social or violent acts would indeed be ironic and unjust."

While many C.O.'s have been placed on probation in recent years it is seldom that a nonregistrant is accorded probation. Stoltenberg is the first nonregistrant in the San Francisco area to be given probation. According to CCCO records only three other C.O.'s have ever been placed on probation by the U. S. district court for Northern California.

HUMANIST DENIED CITIZENSHIP

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an internationalist, not a nationalist. The examiner concluded that Levy's statement "clearly indicates a lack of loyalty and preference for the United States, and would tend to nullify a belief in his sincerity . . ."

The examiner recorded that Levy admitted an "active interest in left-wing organizations and a sympathy for minority groups." As examples, the examiner records that Levy occasionally attended lectures at the First Unitarian Church in Los Angeles, and that he had made small monetary donations to the National Association for the Advancement of Colored People, the Committee for Racial Equality, and other similar organizations.

An appeal is being taken to the U. S. District Court in Los Angeles. Paul Posner is attorney for Levy.

Illinois U. Exempts C.O.'s

The University of Illinois Board of Trustees last July provided for exemption of conscientious objectors from R.O.T.C., effective this school year. Previously, the University refused to exempt C.O.'s. The change in the long-standing policy of the University resulted from a study made by the University Committee on Military Affairs which recommended that C.O.'s be excused from R.O.T.C., but be required to complete five semester hours in certain courses which would give the C.O. a better understanding of international politics and history of warfare.

C.O. petitions for exemption from R.O.T.C. must be approved by the University Committee on Military Science consisting of the chairman of the Committee on Military Affairs, the Dean of Students, and at least one faculty member who is not a member of the Military Affairs Committee. An adverse decision of the Committee on Military Science may be appealed to the President of the University.

For several years Urbana Quakers, the American Friends Service Committee, and others concerned over the rights of conscience have sought to secure exemption for C.O.'s.

Most of the large state universities have made provisions for exempting C.O.'s from compulsory R.O.T.C. Among those which still refuse to exempt C.O.'s are the University of California and the University of Maryland. Recently, some Maryland Quakers again urged Maryland University to exempt C.O.'s.

Periodic attempts have been made in other schools to secure exemption for C.O.'s, or to eliminate compulsory R.O.T.C. entirely. Michigan State University's Committee on the Future of the University recommended this summer that a joint Faculty-Military Committee be formed to investigate the possibility of installing a voluntary military education program to replace the present compulsory system of R.O.T.C.

THE COURT REPORTER

I PROSECUTIONS

Sentences not previously reported

- 4-28-59 Ruth Best, \$25 fine, (New York State) Justice Lawrence J. Griffin, violation of New York Defense Emergency Act
- 8-17-59 Jacob Weaver Nolt, three years, (Philadelphia) Judge Frederick V. Follmer, refusal of civilian work
- 8-24-59 Ammon Hennacy, six months and \$500 fine, (Omaha) Judge Richard E. Robinson, unlawful entry into a military reservation

Sentenced since last issue

- 10-8-59 John Gary Stoltenberg, five years on probation, (San Francisco) Judge George B. Harris, refusal to register for the draft

Arrests

- California—James R. Cooney
- Rhode Island—W. W. Hart, Jr.

II RELEASED FROM PRISON

(None reported)

III. CURRENTLY IMPRISONED

- Alderson, W. Va.—Marjorie Swann
- Allenwood, Pa.—Karl Meyer, Jacob Weaver Nolt
- Danbury, Conn.—Ed Lazar
- Sandstone, Minn.—Arthur Harvey, Ammon Hennacy
- Seagoville, Texas—Donald Fortenberry
- Springfield, Mo.—John Decker, Charles Edgar Garrison, Bradford Lytle

(Total number of C.O.'s convicted of Selective Service violations since 1948 to date, 347. This is a minimum number; J.W.'s and Muslims are not included, and we miss a few.)

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